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Date: October 13, 2004 Planning Commission Meeting

Item No.

## MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearings

Report Prepared by: Troy Fujimoto

Public Hearing: Yes: ☒ No: ☐

Notices Mailed On: 10-1-04 Published On: 9-30-04 Posted On: 10-1-04

**TITLE:** USE PERMIT NO. UP2004-23

Proposal: A request for a dental laboratory

Location: 40 N. Park Victoria Drive

APN: 029-13-014

**RECOMMENDATION:** Approval with Conditions

Applicant: Keith Tae Kim, 2747 Lucena Drive, San Jose, CA 95132

Property Owner: Meldorese J D'Agustino, 784 Portswood Drive, San Jose, CA 95120

Previous Action(s): "S" Zone Approval, Use Permit

General Plan Designation: Professional/Administrative Office

Present Zoning: Administrative and Professional Office District with a "S" Zone Overlay (CO-S)

Existing Land Use: Multi-tenant office complex

Environmental Impacts: See Page 3

Agenda Sent To: Applicant & Owner (same as above)

Attachments: Plans  
Letter of description from applicant

PJ#2393

### BACKGROUND

In July 1965, the Planning Commission approved an "S" Zone and Use Permit application for the development of gas station and medical/dental complex at the corner of Calaveras and N. Park Victoria Drive. Subsequent approvals include "S" Zone amendments for fencing, signage, building expansion and a request to expand the number of pump stations for the adjoining gas station.

The proposed dental lab is located near the corner of N. Park Victoria and Calaveras Boulevard. The project site is bordered to the east by civic facilities including the Milpitas Sports Center and office of the Milpitas Unified School District. Further to the east and north are residential uses. Uses to the

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south include a gas station and commercial uses. Uses to the west include commercial, office and residential uses, with N. Park Victoria adjacent to the west.

## **THE APPLICATION/PROJECT DESCRIPTION**

This application is submitted pursuant to Section 57 (Conditional Use Permit) and Section 17.04-1 of the Zoning Ordinance. Section 17.04-1 allows medical and dental laboratories as a conditional use in the CO district. The applicant is requesting approval to operate a dental laboratory out of a 750 square foot tenant space.

### **Parking**

When the project was originally built parking for the site was provided at a ratio of 1 space per 160 square feet. However, since this original approval, some spaces have been lost due to handicap parking requirements, thus, the new ratio is now 1 space per 175 square feet. Based on the parking demand for a dental office, the parking ratio is 1 space per 225 feet, thus, there is adequate parking supply. However, parking is even less of an issue, since this is a dental laboratory and not frequented by patients as a normal dental office. The long-term goal is to have up to four people working in the office, in the short term there will only be one person. Based on the 750 square feet of tenant space, that would equate to 4 parking spaces allocated to the tenant space. Staff is confident there is sufficient parking for the proposed use.

## **ISSUES**

### **Neighborhood/Community Impact**

The proposed dental laboratory is expected to have a positive community impact by providing a complementary use to the existing dental and medical uses in the complex as well as those located throughout the city. It will provide services, such as dental prosthetics, dentures, molds, crowns, etc to medical/dental offices throughout the city. Because it is a low intensity use it will not impact the area by bringing additional traffic, therefore, staff concludes that the dental laboratory as conditioned, will not negatively impact the surrounding neighborhood.

## **USE PERMIT FINDINGS**

Any approval of a Use Permit or Use Permit Amendment requires that the Planning Commission make the following findings:

1. The proposed use is consistent with the Milpitas Zoning Ordinance.
2. The proposed use is consistent with the Milpitas General Plan.
3. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

The following sections explain how these findings can be made for the proposed project, as conditioned.

### **Conformance with the General Plan**

The project conforms to the General Plan in that the use directly relates to:

**Implementing Policy 2.a-I-3**, which encourages economic pursuits, which will strengthen and promote development through stability and balance,

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**Implementing Policy 2.a-I-6**, which endeavors to maintain a balanced economic base that can resist downturns in any one economic sector, and

The proposed dental laboratory will provide a service for the needs of residents and related businesses alike to the City of Milpitas. The dental laboratory will provide specific, unique dental products to local offices and patients and bring it in closer proximity for quicker service that will benefit the City in general.

### **Conformance with the Zoning Ordinance**

The proposed project is located in the Administrative and Professional Office District (CO). Part of this district's purpose is to "provide for medical, business, and professional offices, and medical and dental clinics." The project, with recommended conditions of approval, complies with the City's zoning ordinance for this district because the dental laboratory is directly related to the medical and dental field that this district serves and it is a use that is conditionally allowed in the zoning district.

### **RECOMMENDATION**

Close the Public Hearing. Approve Use Permit No. P-UP2004-23, based on the Findings and Special Conditions of Approval listed below.

### **FINDINGS**

1. The proposed project is categorically exempt from the provisions of CEQA pursuant to Class 1, Section 15301 (Existing Facilities) of the state CEQA Guidelines.
2. The proposed dental laboratory is consistent with the City of Milpitas Zoning Ordinance and General Plan in terms of land use for Administrative and Professional Office zoning district as it is a business use that is medical/dental business.
3. As conditioned, the dental laboratory will not be detrimental or injurious to the public health, safety, and general welfare to adjacent tenants or the surrounding community because the project will not have any impacts associated with the project.

### **SPECIAL CONDITIONS**

1. This Use Permit No. P-UP2004-23 approval is for an approximate 750 square foot, dental laboratory as shown on approved plans dated October 13, 2004, except as may be otherwise modified by these conditions of approval. Modifications to the proposed use may require review and approval by the Planning Commission of an amendment to this Use Permit. (P)
2. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations. (P)
3. All new roof-top equipment associated with this tenant space shall be shielded from view in a manner to the approval of the Planning Commission or its designee as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code. Prior to the issuance of any permit for any roof-top equipment which projects above the height of any existing parapet wall or screen, detailed architectural plans for the screening of this equipment and/or line-of-sight view analysis demonstrating that the equipment will not be visible from surrounding view points shall be reviewed and approved as specified in Section XI-10-42.10-2 of the Milpitas Municipal Code, in order to assure the screening of said equipment is in keeping with and in the interest of good architectural design principles. (P)

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4. If at the time of application for permit there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
5. If at the time of application for a certificate of occupancy there is a project job account balance due to the City for recovery of review fees, a certificate of occupancy shall not be issued until the balance is paid in full. (P)
6. Applicant/property owner shall be responsible for the trash collection and recycling services account. Prior to occupancy permit issuance, the applicant shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with BFI for commercial services:
  - a. An adequate level of service for trash collection, minimum of 1 – 4 cyd bin collected 1X/week.
  - b. An adequate level of service for recycling collection, minimum of 1 – 2 cyd bin collected 1X/week.

After the applicant has started its business, BFI commercial representative shall determine the adequacy of the solid waste level of services. If services found to be inadequate, the applicant shall increase the service to the level determined by the evaluation. At no time shall bio-hazardous waste be disposed in trash or recycling bins. For general information, contact BFI at (408) 432-1234, x-264.

7. The developer shall submit a Sewer Needs Questionnaire and/or Industrial Waste Questionnaire with the building permit application and pay the related fees prior to Building Permit issuance by the Building Division.

(P) = Planning Division

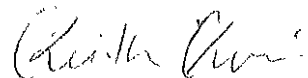
(E) = Engineering

## Proposal Letter to the City of Milpitas Planning Division.

My name is Keith T. Kim, and I am the owner of Juno Dental Laboratory. My application for the use permit is for the sole purpose of operating a Crown and Bridge Dental Laboratory at 40 North Park Victoria Dr., suit C. I manufacture fixed prosthetic crown, bridges, and veneers for patients with restorative or cosmetic needs. There is no proposed additions, removal, or changes to the current site, exterior or interior. The current occupants of this building include, Dentists, chiropractors, and a dental laboratory that has been in the business for more than fifteen years in the same location. This laboratory is a removable lab, that only does dentures and partial. There is no competition problem with this laboratory.

A Dental Laboratory and a Dentist use very similar equipments and materials. There are some dental offices that has their own laboratory inside their offices. These Labs are called In-House Laboratory in my profession. I hope the city planners would consider my proposal of operating a dental laboratory in this building

Sincerely,

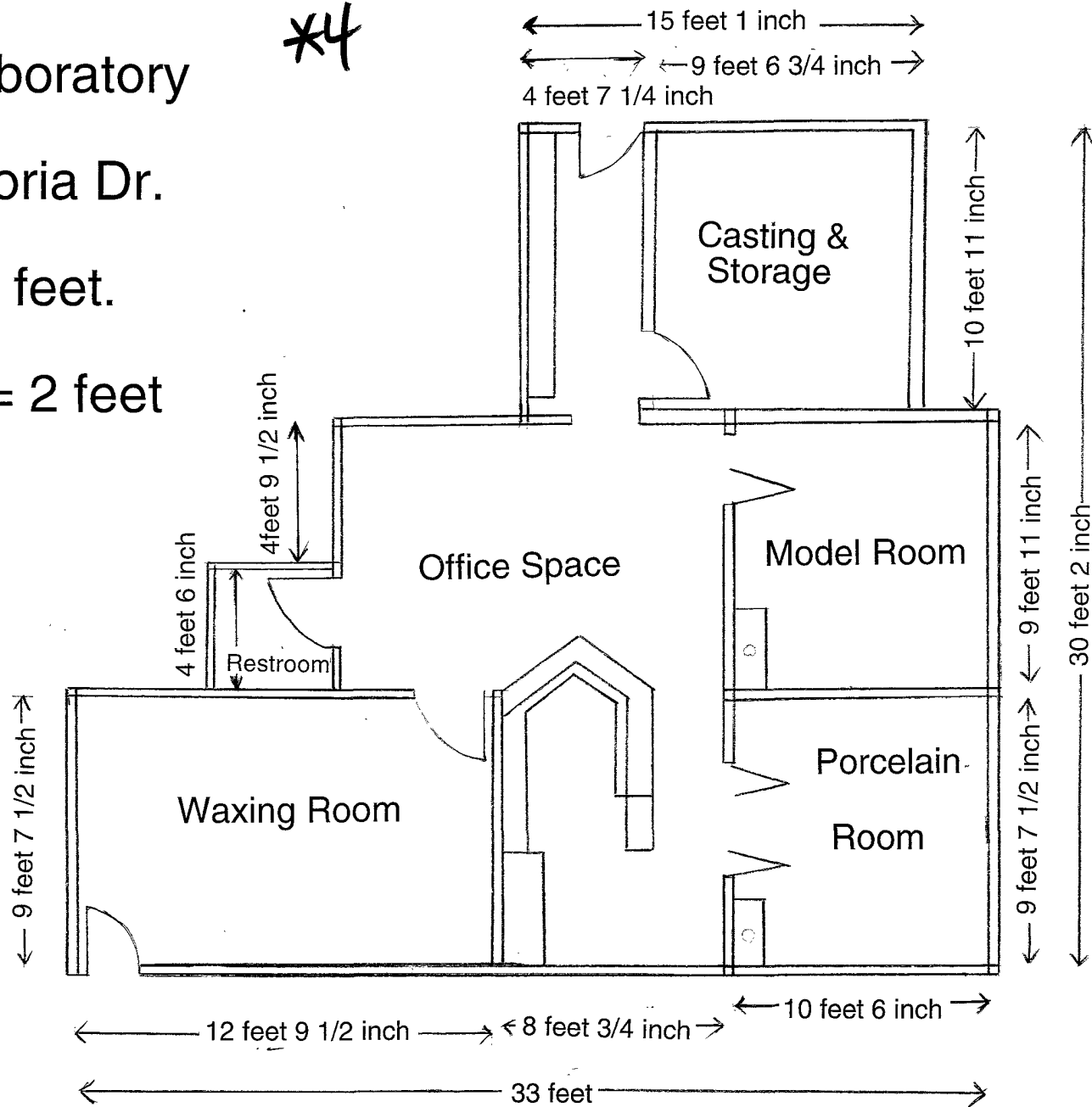
A handwritten signature in cursive script, appearing to read "Keith T. Kim".

Juno Dental Laboratory

40 N. Park Victoria Dr.

Suit C 747 sq. feet.

Scale 1/8 inch = 2 feet



# Parking Lot

Scale  $\frac{3}{8}$  inches = 10 feet

